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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

KELIN HARRIS,

Defendant and Appellant.

B293770

Los Angeles County
Super. Ct. No. MA067489

APPEAL from a judgment of the Superior Court of Los Angeles County, Daviann L. Mitchell, Judge. Affirmed.

Marta I. Stanton, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION

Defendant Kelin Harris appeals the trial court's denial of his request to strike firearm enhancements following remand for resentencing pursuant to Senate Bill No. 620 (2017–2018 Reg. Sess.) (SB 620). The court denied the request, concluding that the original sentence was appropriate. After appellate counsel filed a brief in which she raised no issues and asked us to review the record independently under *People v. Wende* (1979) 25 Cal.3d 436, defendant submitted a supplemental brief asserting trial errors that were not raised in his prior appeal.¹

We have reviewed the entire record and defendant's supplemental brief and have found no arguable appellate issues. We therefore affirm the judgment.

BACKGROUND

We adopt the factual and procedural background in our prior opinion in this matter. (*People v. Harris* (June 8, 2018, B280335) [nonpub. opn.].) Essentially, defendant tried to rob two employees that worked at the Oxford Inn in Lancaster. Defendant pointed a gun at each of them.

After a jury trial, defendant was convicted of two counts of attempted robbery (Pen. Code,² § 664/213, subd. (b); counts 1, 2), and one count of resisting a peace officer (§ 148, subd. (a)(1); count 3). The jury also found true the allegations that defendant personally used a firearm in the commission of the attempted robberies. (§ 12022.53, subd. (b).) Defendant waived jury trial on

¹ Because those purported errors should have been raised in defendant's prior appeal, we do not consider them.

² All undesignated statutory references are to the Penal Code.

the prior-conviction allegations and in a bifurcated trial, the court found defendant had suffered two prior strikes (§ 667, subds. (b)–(i)), one prior serious felony conviction (§ 667, subd. (a)(1)), and one prior conviction for which he had served a prior prison term (§ 667.5, subd. (b)). The prior strikes were for assault with a deadly weapon (§ 245) and second degree robbery (§ 211).

The court sentenced defendant to an aggregate term of 25 years plus 50 years to life in state prison. For count 1, the court sentenced defendant to 15 years plus 25 years to life—a third-strike term of 25 years to life, plus 10 years for the firearm enhancement (§ 12022.53, subd. (b)) and five years for the serious-felony prior (§ 667, subd. (a)(1)). For count 2, the court sentenced defendant to 10 years plus 25 years to life—a third-strike term of 25 years to life plus 10 years for the firearm enhancement (§ 12022.53, subd. (b))—to run consecutively to count 1. For count 3, the court sentenced defendant to 364 days in county jail to run concurrently with the sentence in count 1.

In defendant’s prior appeal, we affirmed his convictions but remanded the matter for the court to exercise its newly-granted discretion under SB 620 whether to strike the firearm enhancements.

On October 5, 2018, the matter came before the court for resentencing. Having reviewed the probation report, trial file, sentencing memoranda—and allowing defendant to discuss his background, remorse, and commitment to sobriety—the court declined to strike the firearm enhancements and re-imposed the previous sentence. The court noted that defendant had pointed the firearm at both victims, the victims were particularly vulnerable, and defendant had a criminal history dating to 2004.

The court also rejected defendant's claim that his mental illness had anything to do with commission of the crimes.

DISCUSSION

We have examined the entire record, and are satisfied appellate counsel has fully complied with her responsibilities and no arguable issues exist in the appeal before us. (*Smith v. Robbins* (2000) 528 U.S. 259, 278–284; *People v. Wende, supra*, 25 Cal.3d at p. 443.)

DISPOSITION

The judgment is affirmed.

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LAVIN, J.

WE CONCUR:

EDMON, P. J.

EGERTON, J.